

REMARKS

In view of the foregoing amendments to the specification, and the arguments that follow, applicant respectfully submits that all of the pending claims are in condition for allowance.

Election/Restriction

In the Communication mailed April 7, 2004, the Examiner set forth a requirement to elect a species of the claimed invention for examination in the present application. In the most recent Office Action, mailed May 11, 2004, the Examiner now characterizes the earlier requirement, to elect a species for the purposes of examination, as a restriction requirement. The Examiner notes that since the applicant did not traverse the alleged restriction requirement, the election has been treated as an election without traverse.

Applicant respectfully submits that the record shows that on April 7, 2004, the Examiner mailed a requirement to elect a species for the purposes of examination, and not a restriction requirement. Applicant did not traverse because there was no restriction requirement to traverse.

Applicant respectfully submits that since the Examiner did not issue a restriction requirement, Claims 2, 3, 9, 10, 14, and 16-18 should not be withdrawn from further consideration.

Objections to the Specification

In view of the foregoing amendments to the specification, applicant submits that the Examiner's objection to the specification are moot. Applicant respectfully requests withdrawal of the objections to the specification.

Rejection of Claims 1, 4-8, 11-13, 15, 19-24, and 27-30 Under 35 U.S.C. § 103(a) as Being Unpatentable Over Mah (6,134,826) and Further in View of Wilson (6,158,165)

The Examiner states that Mah does not disclose a device comprising a whisker assembly. The Examiner states that Wilson discloses a whisker assembly. The Examiner argues it would have been obvious to one having ordinary skill in the art at the time the invention was made to

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substitute funnel aperture of the device, as modified, of Mah, with the whisker assembly of Wilson to create a more reliable one-way gate means.

Applicant submits that there is no motivation to modify the Mah device to incorporate the whisker assembly of Wilson, and that such modification would likely render the Mah device inoperable for its intended purpose.

Mah discloses an insect trapping appliance wherein insects are attracted by light to an upper, partially open, chamber which includes a low voltage electrical grid array for deleteriously affecting and disabling insects which alight on the inner walls of the upper chamber. (See, e.g., Mah Abstract.) The low voltage grid array produces a low voltage current which acts fairly slowly and silently to disorient and disable the insect as it makes contact. (*Id.*) The disabled insect then falls into, or by its own movements, slides into an entry hole of a conical surface and through a narrow neck of a sound suppression chamber within the appliance (See e.g., Mah patent, Col 2, lines 18-22, and FIG. 1.)

As further stated at Col. 4, lines 9-12 of the Mah patent:

The funnel or conical surface 31 can be more steeply sloped than shown in the drawing to insure that disabled flying insects falling from the back wall 15 will readily slide into the central opening 33.

Thus, applicant submits that the conical surface of the Mah device serves to guide stunned or disoriented insects into the body of the Mah device, and offers little or no physical resistance to the entry of the insects into the Mah device. Applicant submits that replacement of the conical surface of the Mah device with an array of fibers would introduce a physical barrier that impedes the easy entry of the stunned or disoriented insects into the Mah trap. It appears likely that, typically, a stunned insect would be unable to expend sufficient energy to push through an array of fibers to gain entry to the modified Mah device, and so would likely become stuck in the fibers, thereby blocking entry to the modified Mah device and rendering the device inoperable. Thus, there is no motivation to replace the conical entry member disclosed by Mah

with the fiber array disclosed by Wilson. Consequently, applicant respectfully requests withdrawal of this basis for claim rejection.

CONCLUSION

In view of the foregoing arguments and amendments to the specification, applicant submits that all of the pending claims are in condition for allowance. Reconsideration and favorable action are requested.

Respectfully submitted,

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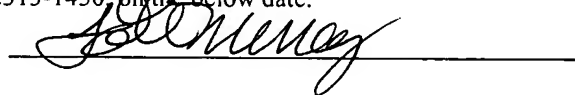


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